

1                                    AMENDMENT TO HOUSE BILL 2296

2            AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2296 by replacing  
3 everything after the enacting clause with the following:

4            "Section 1. Findings; validation.

5            (a) Public Act 90-456, effective January 1, 1998, was  
6 entitled "An Act in relation to criminal law.". It contained  
7 provisions amending the Criminal Code of 1961, the Code of  
8 Criminal Procedure of 1963, and the Emergency Telephone  
9 System Act, all pertaining to the subject of criminal law.  
10 It also contained a provision amending subsection (b) of  
11 Section 2-14 of the Juvenile Court Act of 1987, relating to  
12 the commencement of civil adjudicatory hearings in abuse,  
13 neglect, and dependency cases.

14            (b) The Illinois Supreme Court, in People v. Sypien,  
15 Docket No. 89265, has ruled that the inclusion of the  
16 amendment to the Juvenile Court Act of 1987 violated the  
17 single subject clause of the Illinois Constitution (Article  
18 IV, Section 8(d)), and that Public Act 90-456 is therefore  
19 unconstitutional in its entirety.

20            (c) This Act re-enacts Section 15.2 of the Emergency  
21 Telephone System Act, Section 26-1 of the Criminal Code of  
22 1961, and Section 108-8 of the Code of Criminal Procedure of  
23 1963. The text of those Sections includes both the changes

1 made by Public Act 90-456 and, where applicable, changes made  
2 by subsequent amendments. In order to avoid confusion with  
3 the changes made by subsequent amendments, the Sections that  
4 are re-enacted in this Act are shown as existing text (i.e.,  
5 without striking and underscoring). This Act is not intended  
6 to supersede any other Public Act that amends the text of any  
7 of the re-enacted Sections as set forth in this Act. This Act  
8 also amends Section 12-14 of the Criminal Code of 1961.

9 (d) All otherwise lawful actions taken before the  
10 effective date of this Act in reliance on or pursuant to  
11 Section 108-8 of the Code of Criminal Procedure of 1963, as  
12 set forth in Public Act 90-456, by any officer, employee, or  
13 agency of State or local government or by any other person or  
14 entity, are hereby validated.

15 (e) The re-enactment by this Act of Section 108-8 of the  
16 Code of Criminal Procedure of 1963 applies to warrants issued  
17 or executed on or after the effective date of Public Act  
18 90-456 (January 1, 1998), as well as warrants issued or  
19 executed on or after the effective date of this Act.

20 Section 5. The Emergency Telephone System Act is amended  
21 by re-enacting Section 15.2 as follows:

22 (50 ILCS 750/15.2) (from Ch. 134, par. 45.2)

23 Sec. 15.2. Any person calling the number "911" for the  
24 purpose of making a false alarm or complaint and reporting  
25 false information is subject to the provisions of Section  
26 26-1 of the Criminal Code of 1961.

27 (Source: P.A. 90-456, eff. 1-1-98.)

28 Section 10. The Criminal Code of 1961 is amended by  
29 re-enacting Section 26-1 and amending Section 12-14 as  
30 follows:

1 (720 ILCS 5/12-14) (from Ch. 38, par. 12-14)

2 Sec. 12-14. Aggravated Criminal Sexual Assault.

3 (a) The accused commits aggravated criminal sexual  
4 assault if he or she commits criminal sexual assault and any  
5 of the following aggravating circumstances existed during, or  
6 for the purposes of paragraph (7) of this subsection (a) as  
7 part of the same course of conduct as, the commission of the  
8 offense:

9 (1) the accused displayed, threatened to use, or  
10 used a dangerous weapon, other than a firearm, or any  
11 object fashioned or utilized in such a manner as to lead  
12 the victim under the circumstances reasonably to believe  
13 it to be a dangerous weapon; or

14 (2) the accused caused bodily harm, except as  
15 provided in subsection (a)(10), to the victim; or

16 (3) the accused acted in such a manner as to  
17 threaten or endanger the life of the victim or any other  
18 person; or

19 (4) the criminal sexual assault was perpetrated  
20 during the course of the commission or attempted  
21 commission of any other felony by the accused; or

22 (5) the victim was 60 years of age or over when the  
23 offense was committed; or

24 (6) the victim was a physically handicapped person;  
25 or

26 (7) the accused delivered (by injection,  
27 inhalation, ingestion, transfer of possession, or any  
28 other means) to the victim without his or her consent, or  
29 by threat or deception, and for other than medical  
30 purposes, any controlled substance; or

31 (8) the accused was armed with a firearm; or

32 (9) the accused personally discharged a firearm  
33 during the commission of the offense; or

34 (10) the accused, during the commission of the

1 offense, personally discharged a firearm that proximately  
2 caused great bodily harm, permanent disability, permanent  
3 disfigurement, or death to another person.

4 (b) The accused commits aggravated criminal sexual  
5 assault if the accused was under 17 years of age and (i)  
6 commits an act of sexual penetration with a victim who was  
7 under 9 years of age when the act was committed; or (ii)  
8 commits an act of sexual penetration with a victim who was at  
9 least 9 years of age but under 13 years of age when the act  
10 was committed and the accused used force or threat of force  
11 to commit the act.

12 (c) The accused commits aggravated criminal sexual  
13 assault if he or she commits an act of sexual penetration  
14 with a victim who was a severely or profoundly mentally  
15 retarded person at the time the act was committed.

16 (d) Sentence.

17 (1) Aggravated criminal sexual assault in violation  
18 of paragraph (1), (2), (3), (4), (5), (6), or (7) of  
19 subsection (a) or in violation of subsection (b) or (c)  
20 is a Class X felony. A violation of subsection (a)(8) is  
21 a Class X felony for which 15 years shall be added to the  
22 term of imprisonment imposed by the court. A violation of  
23 subsection (a)(9) is a Class X felony for which 20 years  
24 shall be added to the term of imprisonment imposed by the  
25 court. A violation of subsection (a)(10) is a Class X  
26 felony for which 25 years or up to a term of natural life  
27 imprisonment shall be added to the term of imprisonment  
28 imposed by the court.

29 (2) A person who is convicted of a second or  
30 subsequent offense of aggravated criminal sexual assault,  
31 or who is convicted of the offense of aggravated criminal  
32 sexual assault after having previously been convicted of  
33 the offense of criminal sexual assault or the offense of  
34 predatory criminal sexual assault of a child, or who is

1 convicted of the offense of aggravated criminal sexual  
2 assault after having previously been convicted under the  
3 laws of this or any other state of an offense that is  
4 substantially equivalent to the offense of criminal  
5 sexual assault, the offense of aggravated criminal sexual  
6 assault or the offense of predatory criminal sexual  
7 assault of a child, shall be sentenced to a term of  
8 natural life imprisonment. The commission of the second  
9 or subsequent offense is required to have been after the  
10 initial conviction for this paragraph (2) to apply.

11 (Source: P.A. 91-404, eff. 1-1-00; 92-434, eff. 1-1-02.)

12 (720 ILCS 5/26-1) (from Ch. 38, par. 26-1)

13 Sec. 26-1. Elements of the Offense.

14 (a) A person commits disorderly conduct when he  
15 knowingly:

16 (1) Does any act in such unreasonable manner as to  
17 alarm or disturb another and to provoke a breach of the  
18 peace; or

19 (2) Transmits or causes to be transmitted in any  
20 manner to the fire department of any city, town, village  
21 or fire protection district a false alarm of fire,  
22 knowing at the time of such transmission that there is no  
23 reasonable ground for believing that such fire exists; or

24 (3) Transmits or causes to be transmitted in any  
25 manner to another a false alarm to the effect that a bomb  
26 or other explosive of any nature or a container holding  
27 poison gas, a deadly biological or chemical contaminant,  
28 or radioactive substance is concealed in such place that  
29 its explosion or release would endanger human life,  
30 knowing at the time of such transmission that there is no  
31 reasonable ground for believing that such bomb, explosive  
32 or a container holding poison gas, a deadly biological or  
33 chemical contaminant, or radioactive substance is

1           concealed in such place; or

2           (4) Transmits or causes to be transmitted in any  
3 manner to any peace officer, public officer or public  
4 employee a report to the effect that an offense will be  
5 committed, is being committed, or has been committed,  
6 knowing at the time of such transmission that there is no  
7 reasonable ground for believing that such an offense will  
8 be committed, is being committed, or has been committed;  
9 or

10          (5) Enters upon the property of another and for a  
11 lewd or unlawful purpose deliberately looks into a  
12 dwelling on the property through any window or other  
13 opening in it; or

14          (6) While acting as a collection agency as defined  
15 in the "Collection Agency Act" or as an employee of such  
16 collection agency, and while attempting to collect an  
17 alleged debt, makes a telephone call to the alleged  
18 debtor which is designed to harass, annoy or intimidate  
19 the alleged debtor; or

20          (7) Transmits or causes to be transmitted a false  
21 report to the Department of Children and Family Services  
22 under Section 4 of the "Abused and Neglected Child  
23 Reporting Act"; or

24          (8) Transmits or causes to be transmitted a false  
25 report to the Department of Public Health under the  
26 Nursing Home Care Act; or

27          (9) Transmits or causes to be transmitted in any  
28 manner to the police department or fire department of any  
29 municipality or fire protection district, or any  
30 privately owned and operated ambulance service, a false  
31 request for an ambulance, emergency medical  
32 technician-ambulance or emergency medical  
33 technician-paramedic knowing at the time there is no  
34 reasonable ground for believing that such assistance is

1 required; or

2 (10) Transmits or causes to be transmitted a false  
3 report under Article II of "An Act in relation to victims  
4 of violence and abuse", approved September 16, 1984, as  
5 amended; or

6 (11) Transmits or causes to be transmitted a false  
7 report to any public safety agency without the reasonable  
8 grounds necessary to believe that transmitting such a  
9 report is necessary for the safety and welfare of the  
10 public; or

11 (12) Calls the number "911" for the purpose of  
12 making or transmitting a false alarm or complaint and  
13 reporting information when, at the time the call or  
14 transmission is made, the person knows there is no  
15 reasonable ground for making the call or transmission and  
16 further knows that the call or transmission could result  
17 in the emergency response of any public safety agency.

18 (b) Sentence. A violation of subsection (a)(1) of  
19 this Section is a Class C misdemeanor. A violation of  
20 subsection (a)(5), (a)(7), (a)(11), or (a)(12) of this  
21 Section is a Class A misdemeanor. A violation of subsection  
22 (a)(8) or (a)(10) of this Section is a Class B misdemeanor.  
23 A violation of subsection (a)(2), (a)(4), or (a)(9) of this  
24 Section is a Class 4 felony. A violation of subsection  
25 (a)(3) of this Section is a Class 3 felony, for which a fine  
26 of not less than \$3,000 and no more than \$10,000 shall be  
27 assessed in addition to any other penalty imposed.

28 A violation of subsection (a)(6) of this Section is a  
29 Business Offense and shall be punished by a fine not to  
30 exceed \$3,000. A second or subsequent violation of  
31 subsection (a)(7), (a)(11), or (a)(12) of this Section is a  
32 Class 4 felony. A third or subsequent violation of  
33 subsection (a)(5) of this Section is a Class 4 felony.

34 (c) In addition to any other sentence that may be

1 imposed, a court shall order any person convicted of  
2 disorderly conduct to perform community service for not less  
3 than 30 and not more than 120 hours, if community service is  
4 available in the jurisdiction and is funded and approved by  
5 the county board of the county where the offense was  
6 committed. In addition, whenever any person is placed on  
7 supervision for an alleged offense under this Section, the  
8 supervision shall be conditioned upon the performance of the  
9 community service.

10 This subsection does not apply when the court imposes a  
11 sentence of incarceration.

12 (Source: P.A. 90-456, eff. 1-1-98; 91-115, eff. 1-1-00;  
13 91-121, eff. 7-15-99; 92-16, eff. 6-28-01.)

14 Section 15. The Code of Criminal Procedure of 1963 is  
15 amended by re-enacting Section 108-8 as follows:

16 (725 ILCS 5/108-8) (from Ch. 38, par. 108-8)

17 Sec. 108-8. Use of force in execution of search warrant.

18 (a) All necessary and reasonable force may be used to  
19 effect an entry into any building or property or part thereof  
20 to execute a search warrant.

21 (b) The court issuing a warrant may authorize the  
22 officer executing the warrant to make entry without first  
23 knocking and announcing his or her office if it finds, based  
24 upon a showing of specific facts, the existence of the  
25 following exigent circumstances:

26 (1) That the officer reasonably believes that if  
27 notice were given a weapon would be used:

28 (i) against the officer executing the search  
29 warrant; or

30 (ii) against another person.

31 (2) That if notice were given there is an imminent  
32 "danger" that evidence will be destroyed.

1 (Source: P.A. 90-456, eff. 1-1-98.)

2 Section 99. Effective date. This Act takes effect upon  
3 becoming law.".